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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: FACEBOOK, INC. CONSUMER
PRIVACY USER PROFILE LITIGATION,

This document relates to:

ALL ACTIONS

CASE NO. 3:18-MD-02843-VC

**DECLARATION OF ALEXANDER H.
SOUTHWELL IN SUPPORT OF
FACEBOOK'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL**

1 I, Alexander H. Southwell, hereby declare as follows:

2 1. I am an attorney licensed to practice law in the State of New York. I am a partner
 3 with the law firm of Gibson, Dunn & Crutcher LLP. I submit this declaration in support of Face-
 4 book's Administrative Motion to File Under Seal. I make this declaration on my own
 5 knowledge, and I would testify to the matters stated herein under oath if called upon to do so.

6 2. Facebook initiated the Application Developer Investigation ("ADI" or the
 7 "Investigation") because, in the wake of the reporting of data misuse by Cambridge Analytica in
 8 March 2018, Facebook anticipated that it would have to respond to known and expected legal
 9 challenges in connection with applications and developers that may have had access to certain data
 10 because they were active before Facebook placed additional, significant limitations on the amount
 11 and type of data developers could request from users through the Facebook Platform in 2014.

12 3. Facebook retained outside counsel (Gibson, Dunn & Crutcher LLP) experienced with
 13 cybersecurity and data privacy internal investigations to design and direct a new investigation that
 14 could, among other things, gather the facts necessary for providing legal advice to Facebook about
 15 litigation, compliance, regulatory inquiries, and other legal risks facing the company resulting from
 16 potential data misuse and activities by third-party app developers operating on the prior version of
 17 Facebook's platform.

18 4. I led the Gibson Dunn team engaged to develop and conduct the Investigation. I am a
 19 former federal prosecutor and have more than two decades of experience with large-scale, corporate
 20 investigations. The Gibson Dunn team worked with Facebook's in-house attorneys and members of
 21 Facebook's Partnerships, Data Policy, and DevOps teams on the ADI. I and my team at Gibson
 22 Dunn also led the recruitment and retention of technical experts and investigators for the ADI,
 23 including two leading forensic consulting firms with expertise in assisting with technology-focused
 24 internal investigations.

25 5. The Investigation was highly complex and addressed millions of applications
 26 operating before changes were made to Facebook's platform. There was no industry standard for
 27 how to conduct such an investigation. Rather, under Gibson Dunn's and in-house counsel's
 28 leadership, the ADI investigative team devised and tailored the ADI's methods, protocols, and

strategies to address the specific risks posed by these legal challenges. These proprietary methods and techniques are valuable.

3 6. The methods, techniques, and strategies employed during the Investigation are not
4 only privileged but also highly confidential. Indeed, we have taken numerous substantial steps to
5 maintain the confidentiality of details regarding the Investigation. For example, details about the
6 Investigation are not disclosed publicly, and internally details are disclosed to Facebook employees
7 only on a need-to-know basis.

8 7. Gibson Dunn’s engagement agreements with the two forensic consulting firms
9 retained to support the Investigation contain confidential information regarding the identity and work
10 of Facebook’s non-testifying experts in this matter, including information about their role as
11 consulting experts, their identities, the scope of their engagement, and their investigatory tools. The
12 agreements also contain confidential information about the proprietary design and investigative
13 techniques of the confidential legal Investigation for which the experts were retained to assist
14 counsel.

15 8. The engagement agreements also contain confidential business information that, if
16 publicly disclosed, could undermine Facebook’s and Gibson Dunn’s current and future relationships
17 with third-party vendors, as well as undermine the forensic consulting firms’ current and future
18 relationship with other clients. The agreements contain pricing information, details about
19 compensation and reimbursement, security requirements, liability provisions, and the details about
20 the requested scope of services.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 9, 2021 in Harvey Cedars, New Jersey.

Alexander H. Southwell